

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

THIRD NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in D.C. Official Code § 47-2837 (2005 Repl.) and D.C. Official Code §§ 47-2851.03a(h) and 47-2851.20 (2005 Repl.), hereby gives notice of the intent to adopt the following amendments to chapter 10 (Secondhand Dealers and Junk Dealers) of title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The proposed rulemaking amends the secondhand dealer business license rules to exempt certain types of sales from licensure as a secondhand dealer (businesses exempt from the secondhand dealer license requirement would instead need to obtain a general business license under D.C. Official Code § 47-2851.03d(a) (2011 Supp.)). It also amends the licensee fingerprinting requirement to not require fingerprinting of any secondhand dealer licensee or secondhand dealer license applicant who currently holds or has held within the past five (5) years a District of Columbia business license that required fingerprinting as a condition of the license.

Proposed regulations were previously published in the *D.C. Register* on June 1, 2012, at 59 DCR 6320 (“June 1, 2012, Notice”) and on June 8, 2012, at 59 DCR 6639 (“June 8, 2012, Notice”).

The June 8, 2012, Notice added additional exemptions from licensure as a secondhand dealer for sales of used furniture, home furnishings, lithographs, and certain kinds of jewelry.

Three comments were received in response to the June 1, 2012, Notice and the June 8, 2012, Notice.

Robert Clayton, on behalf of “Save Our Shops,” submitted comments requesting section 1000.6(g) be amended to extend the exemption from licensure to secondhand dealers that sell jewelry that contains precious metals and/or precious stones. Those comments have been accepted and section 1000.6(g) has been amended accordingly.

Mark Eckenwiler submitted comments to: (1) amend section 1000.6(a) to expand the list of items to include other types of recorded media; (2) amend section 1000.6(e) to correct grammar; (3) amend section 1000.6 to deal with temporary licenses; and (4) amend the chapter to delete references to junk dealers. The first two comments were accepted and the affected sections amended accordingly. The last two comments may be revisited in a separate proposed rulemaking dealing with temporary licenses in general and junk dealers in particular.

Additionally, the Reed-Cooke Neighborhood Association submitted a resolution in support of the proposed rulemaking.

This Third Notice of Proposed Rulemaking supersedes the June 1, 2012, Notice and the June 8, 2012, Notice.

Title 16, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, of the District of Columbia Municipal Regulations is amended as follows:

Chapter 10, SECONDHAND DEALERS AND JUNK DEALERS, is amended as follows:

A new subsection 1000.6 is added to read as follows:

1000.6 Nothing in this chapter shall be construed as requiring a secondhand dealer license for a person, firm, or corporation that sells the following kinds of secondhand personal property:

- (a) Books, magazines, vinyl records, cassette tapes, compact discs, VHS videos, DVDs, Blu-ray discs, or other similar recorded media;
- (b) Furniture, home furnishings, architectural salvage, or pianos;
- (c) Rugs or tapestries;
- (d) Used clothing;
- (e) Household property, when offered for sale from the owner's residence on a temporary basis in connection with a garage sale or yard sale;
- (f) Paintings, sculptures, drawings, etchings, engravings, photographs, lithographs, or prints;
- (g) Jewelry that:
 - (1) Does not contain any precious metals and/or precious stones; or
 - (2) Contains precious metals and/or precious stones and has been purchased from an estate sale or certified auction; provided, that written verification shall be provided to any District government official, upon request, that any such jewelry was purchased from an estate sale or certified auction. For purposes of this subsection:
 - (A) "Written verification" shall mean a written record that includes a description of the jewelry purchased, any catalog numbers or identifying information, the date it was purchased, the purchase price, the identification of the seller (including the name, address, telephone number, and other relevant contact information), and an estimate of its fair market value;

- (B) “Precious metals” shall include gold, silver, platinum, or palladium; and
- (C) “Precious stones” shall include diamonds, rubies, sapphires, emeralds, or pearls;
- (h) Merchandise that was accepted or received as a return, exchange, or for credit or refund if such merchandise was originally purchased as new merchandise from the person accepting or receiving it; or
- (i) The first sale, at retail, of merchandise that has been rebuilt by the manufacturer originally manufacturing it, or the licensed agents thereof, and sold as factory rebuilt or refurbished merchandise.

Subsection 1003.3 is amended to read as follows:

1003.3 Nothing in § 1001, § 1002, or this section shall apply to any of the following:

- (a) [RESERVED];
- (b) The receipt of articles of secondhand personal property which are received as donations by Class C dealers;
- (c) The purchase or receipt of articles of secondhand personal property by Class C secondhand dealers, except the purchase or receipt of items listed in § 1003.7;
- (d) The purchase or receipt of articles of secondhand personal property from the United States or District of Columbia governments; or
- (e) Except as otherwise provided by § 1013, the purchase or receipt of bona fide coins or stamps issued by or for a government.

Subsection 1006.6 is amended to read as follows:

1006.6 Each applicant shall have three (3) sets of fingerprints taken by the Metropolitan Police Department. Fingerprints so furnished shall become a part of the application. An applicant who, within the past five (5) years, has received a District of Columbia business license after having submitted their fingerprints to the Metropolitan Police Department as a condition of receiving or renewing either a secondhand dealer business license or any other category of a District of Columbia business license shall be exempt from complying with this subsection and §§ 1006.7 and 1006.8.

All persons desiring to comment on these proposed regulations should submit comments in writing to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory

Affairs, 1100 Fourth Street, SW, Room 5164, Washington, D.C. 20024, or via e-mail at helder.gil@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Persons with questions concerning this Notice of Proposed Rulemaking should call (202) 442-4400. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at <http://dcra.dc.gov> by going to the “About DCRA” tab, clicking on “News Room”, and then clicking on “Rulemaking”.